IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 5 OF 2006

Dr.M. Furquam s/o. Mohd. Yaqoob .. Petitioner
v/s.
The Union of india and others .. Respondents

Mr.Samji Joseph with Mr. K.T. Thomas and Mr. P.T. Jins for the petitioner.

Mr.D.N. Salvi for the respondent Nos.1 to 6.

Ms. Sangeeta Shinde, Additional Public Prosecutor for the respondent Nos.8 and 9.

Mr. Janak Dwarkadas, senior counsel with Mr. Amit Desai, Mr. Zal Andhyarujina, Mr. R.J. Gagrat, Mr. C.M. Mehta, Ms. Sheetal Avhad i/by M/s. Gagrats for the respondent No.7.

CORAM : R.M.LODHA &
S.A.BOBDE, JJ.

DATED : 27TH SEPTEMBER, 2006.

P.C.

By means of this Public Interest Litigation, the petitioner prays for direction for entrustment of the investigation of the case against respondent No.7 to the Central Bureau of Investigation (CBI).

2. The petitioner has alleged that the respondent No.7 has unwholly nexus with the underworld don Dawood Ibrahim and the said nexus is likely to hamper the national security. According to

the petitioner, in the activities in the guise of Jet Airways, the respondent No.7 has been able to procure illegal funding.

3. The investigating machinery sets into motion only after the registration of the First Information Report or the complaint of the commission of crime is made as per the provisions of the Criminal Procedure Code.

4. We asked the counsel for the petitioner as to whether any crime has been registered against the respondent No.7 necessitating investigation. His answer was that the petitioner had made complaint to the Director of CBI. We are afraid, such complaint is no complaint under the Code of Criminal Procedure regarding commission of crime. Since no crime has been registered against the respondent No.7 nor any complaint under the Code of Criminal Procedure of commission of crime duly lodged wherein the respondent No.7 is alleged to be involved, in our view, there is no question of directing CBI to investigate into the aspects alleged in the writ petition. How can there be any investigation when there is no crime registered against respondent No.7.

5. Criminal writ petition is misconceived and is liable to be dismissed and is dismissed accordingly.

(R.M.LODHA, J.)

(S.A.BOBDE, J.)